

The Honorable James L. Robart

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

TSURT, LLC,

Plaintiff,

v.

VARIOUS JOHN DOES, VARIOUS JANE
DOES AND XYZ COMPANY,

Defendants.

NO. 2:18-cv-1119 JLR

**~~PROPOSED~~ ORDER GRANTING
PRELIMINARY INJUNCTION AND
SEIZURE ORDER**



Plaintiff TSURT, LLC ("Plaintiff") having moved for a preliminary injunction enjoining and restraining the defendants from manufacturing, selling or distributing merchandise and to seize the same, bearing the federally registered trademarks, service marks, likenesses, logos, and/or other indicia of the Group "PEARL JAM" (collectively the "Group's Trademarks") and ordering the seizure and impounding such articles; and service having been effected upon certain defendants at the Group's concerts which have previously occurred; and Plaintiff's application having come on for a hearing before the Honorable James L. Robart on August 16, 2018, at the United States Courthouse in the Western District of Washington at Seattle and Plaintiff having appeared by its attorneys, and there having been no other appearances;

Order Granting PI and SO - 1
No. 2:18-cv-1119 JLR

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1 Now, on presentation and consideration of Plaintiff's application for a preliminary
2 injunction and seizure order, the declaration in support thereof and all other pleadings and prior
3 proceedings heretofore had herein in this matter, the Court hereby finds:

4 1. By reason of the substantial and continuous use of the Group's Trademarks in
5 connection with the Group's work as performers, said marks have acquired meanings identified
6 with the Group and with products and services associated with them;

7 2. The defendants, and those in active concert or participation with such defendants,
8 have infringed upon Plaintiff's rights in the Group's Trademarks, as well committed acts of unfair
9 competition against Plaintiff herein by manufacturing, distributing, offering for sale and selling
10 merchandise bearing any or all of the Group's Trademarks at or near the sites of the Group's
11 concerts, without having obtained a license or any other authorization to do so, as alleged in the
12 complaint;

13 3. The defendants' acts, and those in active concert or participation with them,
14 constitute a violation of the U. S. Trademark Act in that they: a) involve goods or services; b) are
15 activities which affect interstate commerce; and c) infringe the trademarks and/or bear a false
16 designation of the source or origin of such goods or are likely to cause confusion, mistake or
17 deception as to the affiliation, connection, association, sponsorship or approval of Plaintiff and/or
18 the Group with respect to such goods;

19 4. Defendants, and those in active concert or participation with them, will continue
20 to sell such unauthorized merchandise unless enjoined by the Court; and

21 5. Copies of this Court's Temporary Restraining Order; Seizure Order; and Order to
22 Show Regarding Why A Preliminary Injunction and Seizure Order Should Not Issue and the
23

1 Complaint filed in support of Plaintiff's application in this case have been served upon the
2 defendants and unauthorized, bootleg merchandise has been seized from the defendants;

3 **NOW, THEREFORE, IT IS HEREBY**

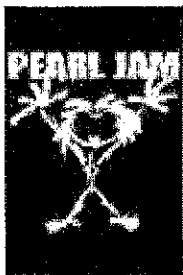
4 **ORDERED**, that the defendants, their agents, servants, employees, attorneys, successors,
5 and assigns, and all persons, firms, and corporations acting in active concert or participation with
6 said defendants, are enjoined and restrained from:
7

8 (A) Using any or all of the Group's Trademarks in connection with the sale, offering
9 for sale, distribution, and/or advertising of any clothing or other merchandise;

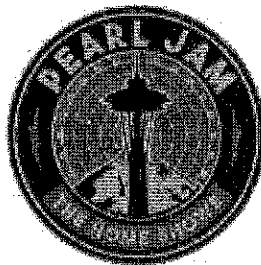
10 (B) Manufacturing, distributing, selling, and/or holding for sale any clothing or other
11 merchandise which carries or otherwise uses any or all of the Group's Trademarks; or

12 (c) Aiding, abetting, inducing, or encouraging another to perform any of the acts
13 enjoined herein.
14

15 **IT IS FURTHER ORDERED**, that the U.S. Marshal for this district or for any district
16 in which Plaintiff seeks to enforce this Order in the United States, the state police, local police,
17 local deputy sheriffs, off-duty officers of the same, and any person acting under their supervision
18 (collectively "Process Servers"), are hereby similarly authorized to seize and impound any and
19 all Infringing Merchandise bearing any or all of the Group's Trademarks including PEARL JAM
20 and/or the designs
21



26 and



1 which defendants or their agents, employees or representatives attempt to sell or are holding for
2 sale in the vicinity of any of the Group's concerts from two (2) days before to one (1) day after
3 any performance within a three (3) mile vicinity of the stadiums, arenas or other venues at which
4 the Group shall be performing or elsewhere where such merchandise is being sold, held for sale
5 or is otherwise found, including in any carton, bag, vehicle, or container in which the
6 merchandise is transported or stored. All clothing, jewelry, photographs, posters and other
7 merchandise bearing any or all of the Group's Trademarks, or any colorable imitations or
8 variations thereof, sold and held for sale in the vicinity of the stadiums, arenas or other venues at
9 which the Group shall be performing, or elsewhere where such merchandise is being sold, held
10 for sale or otherwise found, shall be deemed to be merchandise subject to the seizure provisions
11 of this Order.
12

13
14 **IT IS FURTHER ORDERED**, that service of a copy of this Order, together with the
15 Complaint, be made upon defendants by the Process Servers at the time the seizure provided
16 herein is effected, and that such service shall be deemed good and sufficient.

17 **IT IS FURTHER ORDERED**, that the Process Server shall offer a receipt to each
18 person from whom goods are seized.

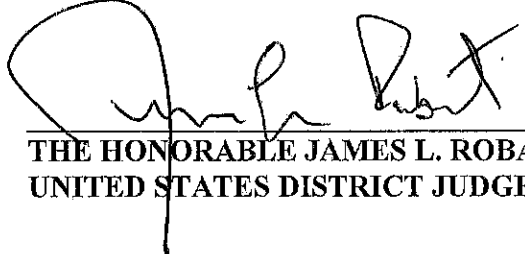
19 **IT IS FURTHER ORDERED**, that any Defendant who is hereafter served with a copy
20 of this Order who objects to the provisions herein may submit his or her objections to this Court
21 or otherwise move for relief from this Court within ten (10) days of the date of seizure according
22 to the Federal Rules of Civil Procedure, but no such objection shall serve to suspend this Order
23 or stay the terms hereof unless otherwise ordered by this Court.
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1 **IT IS FURTHER ORDERED**, that all unauthorized items heretofore or hereafter seized
2 in this action be delivered up to the Plaintiff or the persons designated above, pending final
3 disposition of this matter.

4 **IT IS FURTHER ORDERED**, that the bond deposited with the Clerk of this Court to
5 secure payment of costs incurred in enforcing the provisions of the temporary restraining order
6 and any damages sustained by any party who is found to have been wrongfully enjoined thereby
7 is hereby continued until final disposition of this matter.

9 **IT IS SO ORDERED.**

10 Dated: August ^{31st} 16, 2018
11 At: 9 10 am.


THE HONORABLE JAMES L. ROBART
UNITED STATES DISTRICT JUDGE

12 Presented By:

13 **HICKS, MIMS, KAPLAN & BURNS**

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